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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,009	12/07/2000	Sven Rothe	41114	3830

7590

05/16/2003

Mark S Bicks  
Roylance Abrams Berdo & Goodman  
Suite 600  
1300 19th Street NW  
Washington, DC 20036

EXAMINER

JONES, DAVID B

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 05/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/719,009

Applicant(s)

Rothe et al.

Examiner

David B. Jones

Art Unit

3725

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

1. The preliminary amendment dated 12/07/2000 was drawn to claims 3, 4, 7; yet the instant claims in the application don't contain the limitations to be changed. It would appear that applicant is referring to the claims in the International Preliminary Examination Report. The instant application contains claims 1-14 and not claims 1-9 as contained in the Examination Report. Applicant should clarify which claims are to be examined in the response to this office action and amend the current claims if indeed he wishes the examination of the claims of the International Examination Report.

Further claims 10-14, the article claims drawn to a "rivet", are incorrectly dependent upon another statutory class of invention, an apparatus for riveting. As such the meets and bounds of claims 10-14 are in question in that it is not clear what structure of the apparatus claims are relied upon for the patentability of the article claims. Claims 10-14 should be rewritten in independent form. For purposes of the written restriction, claims 10-14 are considered to be independent of claims 1-9.

2. ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9, drawn to a device for producing a riveted joint, classified in class 29, subclass 243.521.
- II. Claims 10-14, drawn to a rivet for use in a rivet device, classified in class 411, subclass 501.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as apparatus and product for use in the apparatus. The inventions in this relationship are distinct if either of the following can be shown: (1) that the apparatus as claimed can use another product other than that set forth in the product group or (2) that the product as claimed can be used another and materially different apparatus (MPEP § 806.05(g)). In this case both relationships can be shown, the apparatus could use another and materially different rivet in its operation and the rivet claimed in group II can be used in a different and materially different apparatus.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

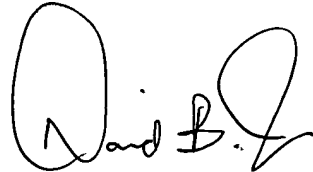
3. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David B. Jones whose telephone number is (703) 308-1887.

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Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148.

In the event that the Applicant (s) wishes to communicate via Fax number for Group 3700 is (703) 305-3579.

wahp

A handwritten signature in black ink, appearing to read "David B. Jones". The signature is stylized with large, flowing loops.

DAVID B. JONES  
PRIMARY PATENT EXAMINER  
ART UNIT 3725